

COPY

June 10, 1954

George F. Nelson

Attorney General

Frederick H. Clarke, Commissioner  
Motor Vehicle Department  
State House Annex

Dear Mr. Clarke:

You have requested the advice of this office concerning disposition of fines for violation of R.L. c. 90 as inserted by c. 188, Laws of 1945, Part 20, ss. 1 through 4, and particularly in regard to the application of s. 30 of c. 118 of the Revised Laws as amended by c. 65, Laws of 1945, c. 94, Laws of 1949 and s. 15, c. 163, Laws of 1951 in a situation where it is understood that an accident resulted from a motor vehicle operator's failure to comply with section 1 of said statute.

It is true that R.L. c. 119, s. 25 makes motor vehicles subject to the law of the road as defined in c. 106 but the Supreme Court in the case of Cofran v. Griffin, 85 N.H. 29 has determined that fines for violation of the so-called "Law of the Road" are not "relative to the use and operation of motor vehicles." The Court stated (p.31) "Motor vehicles have presented two main problems to the state, suitable highways and safe travel." (p.32) "The law of the road is an adjustment of rights of travelers using a highway at the same time, while the motor vehicle law is concerned to make safe the use and operation of motor vehicles on the highways. Safety in respect to highway travel and safety in respect to the condition and management of the instrumentalities of such travel are treated in the legislation as distinct subjects."

In summary the Court has concluded, (p.32) "The law of the road relates to safety of travel, and when the driver of a motor vehicle violates it, it is true that the law has reference to such driving. The vehicle is improperly operated because the law of the road is not observed. But it is not a violation of the motor vehicle law."

I sincerely appreciate your conscientious and scrupulous fairness in calling to my attention the August 1, 1945 opinion of Harold K. Davison, Acting Attorney General, for consideration in connection with this problem.

GFM/T

*Sincerely*

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